

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO

NELSON RIVERA-GARCIA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIV. NO. 11-1017 (PG)

ORDER

Before the Court is petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Docket No. 1). On October 15, 2013, Magistrate-Judge Justo Arenas entered a Report and Recommendation ("Report" or "R&R") upon this court's request. See Docket No. 7. In his Report, Magistrate Arenas recommended that the petition be denied without an evidentiary hearing and warned the petitioner that he had fourteen (14) days from the date that the R&R was received to file any objections. See id. To this date, petitioner had neither filed any objections to the Magistrate's Report or requested an extension of time to do so.

Pursuant to 28 U.S.C. § 636(b)(1)(B), FED.R.CIV.P. 72(b), and Local Rule 72, a District Court may refer dispositive motions to a Magistrate Judge for a Report and Recommendation. See Alamo Rodriguez v. Pfizer Pharmaceuticals, Inc., 286 F.Supp.2d 144, 146 (D.P.R. 2003). The adversely affected party may "contest the Magistrate Judge's report and recommendation by filing objections 'within ten days of being served' with a copy of the order." U.S. v. Mercado Pagan, 286 F.Supp.2d 231, 233 (D.P.R. 2003) (quoting 28 U.S.C. §§ 636(b)(1)).

If objections are timely filed, the District Judge shall "make a *de novo* determination of those portions of the report or specified findings or recommendations to which [an] objection is made." Felix Rivera de Leon

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v. Maxon Engineering Services, Inc., 283 F.Supp.2d 550, 555 (D.P.R. 2003). The Court can "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate," however, if the affected party fails to timely file objections, "the district court can assume that they have agreed to the magistrate's recommendation." Alamo Rodriguez, 286 F.Supp.2d at 146 (citation omitted). See also López- Mulero v. Vélez-Colón, 490 F.Supp.2d 214, 217-218 (D.P.R.2007) ("Absent objection, ... [a] district court ha[s] a right to assume that [the affected party] agree[s] to the magistrate's recommendation."). In fact, no review is required of those issues to which objections are not timely raised. Thomas v. Arn, 474 U.S. 140 (1985); Borden v. Secretary of Health, 836 F.2d 4, 6 (1st Cir.1987).

Petitioner did not file objections to the Report, and the time allotted for doing has already expired. Therefore, in light of the foregoing, we are not required by law to review the R&R. Nevertheless, upon review, we find no fault with Magistrate Judge Arenas' assessment and thus **APPROVE** and **ADOPT** his Report and Recommendation as our own. Consequently, petitioner's motion is **DENIED** and the above-captioned action will be **DISMISSED WITH PREJUDICE**. Judgment shall be entered accordingly.

SO ORDERED.

In San Juan, Puerto Rico, December 9, 2013.

S/ JUAN M. PÉREZ-GIMÉNEZ
JUAN M. PÉREZ-GIMÉNEZ
UNITED STATES DISTRICT JUDGE